

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Wei Su,**

Petitioner-Appellant,

**v.**

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 10-77-0046  
Parcel No. 181/00391-225-014**

On March 29, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Wei Su was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Wei Su is the owner of a residentially classified, single-family residence located at 1009 NE Fountain View Drive, Ankeny, Iowa. The property is a two-story home, built in 1991, and has 3030 square-feet of total above-grade living area. The property has a 1368 square-foot, walk-out basement with 1224 square feet of living-quarters finish. There is also an 816 square-foot, three-car, attached garage; a 659 square-foot deck; a 360 square-foot patio; and a 64 square-foot open front porch. The site is 0.363 acres.

Su protested to the Polk County Board of Review regarding the January 1, 2010, assessment of \$353,300, allocated as \$61,900 in land value and \$291,400 in improvement value. The January 1, 2010, assessment of Su's property did not change from the prior year's assessment.

Su's petition to the Board of Review was on the single ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). Su asserted in his petition that the correct total value of his property is \$281,000. He attached a settlement statement that indicated a purchase price of the subject property for \$281,000. Su did not request a hearing with the Board of Review.

After consideration of all the data, the Board of Review granted partial relief, reducing the total assessment to \$318,400, and stating "the assessed value of this property was changed because there has been a change in value since the last reassessment."

Su then reasserted his claim of over-assessment to this Board.

Because the Board of Review changed the value of Su's property citing a change in value since the last reassessment, we find the Board of Review acquiesced to the ground that there has been a change in value since the last assessment under sections 441/37(1) and 441.35(3). See *Security Mut. Ins. Assn' v. Bd. of Review of City of Ft. Dodge*, 467 N.W.2d 301, 305 (Iowa Ct. App. 1991); *White v. Bd. of Review of Polk County*, 244 N.W.2d 765,769 (Iowa 1976). Therefore, the only ground we will consider on appeal is that there has been a change in value since the last reassessment, as it is the only ground appropriately pled in an "interim year" when the assessor has not changed the assessment.

Included in his appeal to this Board is a letter dated June 2, 2010, with analysis of two properties compared to his property. The June 2010 letter included the following grid:

Address	Parcel	Total Living Area (SF)	Sales Date	Sales Price	Price/SF
902 NE Lake View Dr., Ankeny	181/00391-225-205	2714	11/16/2009	\$255,000	\$94.0
1029 NE Lake View Dr., Ankeny	181/00391-212-001	3054	8/27/2009	\$230,000	\$75.3
(Subject) 1009 NE Fountain View Dr., Ankeny	181/00391-225-014	3030	12/16/2009	\$281,000	\$92.7

The first two properties in the grid are sales identified by Su as comparable to his property. The third address is Su's property. He compares the price paid per square foot and asserts his sale price of \$281,000 demonstrates the current assessment of his property at \$318,300 is too high. Su purchased the property from a relocation company in December 2009 for \$281,000. However, the relocation company had purchased the property in July 2009 for \$355,000. There was no explanation for a decline in value of \$74,000 in a six month period. While relocation sales may be considered normal transactions in establishing market value; because there is such a wide discrepancy between the two sale prices of the subject property in less than a year period without explanation, we do not consider either sale of the subject property as an conclusively demonstrating market value.

Su submitted five exhibits. Three of the exhibits were property record cards printed from the on line assessor's web-site. Two exhibits were letters clarifying his position and critiquing the Board of Review's analysis in the certified record.

The three properties submitted include the two properties previously noted in the grid and a third property located at 1202 NE Lake View Drive, Ankeny, Iowa.

We note that all three properties are similar two-story homes with comparable above-grade living area and built around the same time-frame. However, there are some differences, such as amount and quality of basement finish, as well as differences in amenities, such as patios compared to enclosed porches.

According to the property record card, 902 NE Lake View Drive sold in November of 2009 for \$255,000. However, the transaction was from a bank which was received as the result of a foreclosure. Without any other explanation, this sale may be in the nature of a distress sale and have factors that distort the market value. Iowa Code section 441.21(1)(b).



According to the property record card, 1029 NE Lake View Drive sold in August 2009 for \$230,000. No other information is provided about the listing or sale of this property, and thus it would appear to be an arms-length transaction.

The final property offered by Su is 1202 NE Lake View Court. This is also a two-story home, with similar age and size to the subject. The most recent sale of this property was in October of 2010 for \$323,000. However, like the other properties offered for comparison, there is no listing or sale history provided and no analysis of this property compared to the subject. This property previously sold in August of 2008 for \$430,000. Su provided no reconciliation of why the property sold for over \$100,000 less in a two-year period. No evidence was presented to support that a nearly 25% reduction in home values over the last two years has occurred in the Ankeny area. As such it is unclear to this Board why the property has declined significantly in value. Without explanation or adjustments, we consider it an anomaly.

The Board of Review considered an Appraiser Analysis, which recommended no change to the subject property. The Board of Review rejected that recommendation and subsequently reduced the subject property's 2010 assessment. The appraiser's analysis stated the subject was a "foreclosure sale" and also compared the subject property to five other properties it considered comparable. The five properties considered by the appraiser's analysis include 1029 NE Lake View Drive and 1202 NE Lake View Court, both offered by Su. However, the sale analyzed for 1202 Lake View Court in the appraiser analysis was the August of 2008 sale for \$430,000. This is because this analysis took place prior to the subsequent sale of this property for \$323,000 in October of 2010.

The three other properties considered in the analysis are 1001 NE Fountain View Drive, 1002 NE Lake View Court and 722 NE Brook Haven Drive. After adjustments, the analysis indicates an adjusted price per square foot for the five properties ranging from \$85.61 to \$159.12. The analysis

gives most consideration to 1001 NE Fountain View Drive because it is “a couple of houses away.” This property sold in September of 2009 for \$359,000.

Su fails to offer support for the January 1, 2010, market value of the property. Further, Su fails to provide evidence in support of a January 1, 2009, market value. Both values are necessary to establish a change in value since the last assessment.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of downward change in value.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. *Id.* “Market value” essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value.

*Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3)

give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of

change in value, the taxpayer must show a change in value from one year to the next; the beginning

and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252

N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it

is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be

sufficient only in a year of regular assessment. *Id.* at 451. Su did not provide sufficient evidence

supporting of either the January 1, 2010, market value or the January 1, 2009, market value. Both

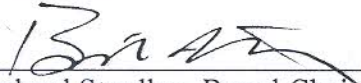
values are required to support a claim of change in value.

THE APPEAL BOARD ORDERS the assessment of Wei Su's property located at 1009 NE Fountain View Drive, Ankeny, Iowa, of \$318,400 as of January 1, 2010, set by the Polk County Board of Review, is affirmed.

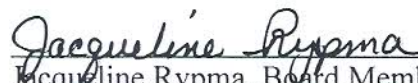
Dated this 13 day of May, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member



Cc:

Wei Su  
1009 NE Fountain View Drive  
Ankeny, Iowa 50021  
APPELLANT

David Hibbard  
111 Court Avenue  
Room 340  
Des Moines, Iowa 50309  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-13</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>John Chapin</i></u>